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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF GENERAL COUNSEL

In the Matter of

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CC Docket No. 96-45

Federal-State Joint Board on  
Universal Service

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**COMMENTS OF PACIFIC TELECOM, INC.**

Pacific Telecom, Inc. ("PTI") submits these Comments in response to the Commission's Notice of Proposed Rulemaking ("Notice") to implement Section 254 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (the "Act" and the "1996 Act"). PTI participated actively in the Commission's prior universal service proceedings,<sup>1/</sup> and incorporates herein its pleadings from those proceedings and amplifies upon them in these Comments.

**I. Introduction**

PTI serves approximately 545,000 access lines in 12 states.<sup>2/</sup> Its service territories are overwhelmingly rural in character: approximately 40% of PTI's exchanges serve less than 500 access lines. PTI is a "rural telephone company" within the meaning of the Act.<sup>3/</sup> PTI was active in promoting the interests of its rural consumers before Congress

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1. *In the Matter of Amendment of Part 36 of The Commission's Rules And Establishment of a Joint Board*, Notice of Inquiry, CC Docket 80-286, FCC 94-199 (1994); *In the Matter of Amendment of Part 36 of The Commission's Rules And Establishment of a Joint Board*, Notice of Proposed Rulemaking, CC Docket No. 80-286, FCC 95-282 (1995).

2. PTI provides local exchange service in Alaska, California, Colorado, Idaho, Iowa, Minnesota, Montana, Nevada, Oregon, Washington, Wisconsin and Wyoming.

3. 47 U.S.C. §153(47)(D)

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and believes the 1996 Act reflects a Congressional mandate to preserve and to promote service to rural areas as a matter of long-term national policy.

In these Comments, PTI offers three introductory propositions which warrant Federal-State Joint Board ("Joint Board") consideration:

- (1) The existing Universal Service Fund ("USF" or the "Fund") should and can be modified to achieve the objectives of Congress with regard to rural areas and consumers;
- (2) The Benchmark Cost Model ("BCM") requires additional examination to determine its suitability as a substitute for the USF -- PTI will in the next four to six weeks submit a comprehensive analysis of the BCM in the context of its own operations; and
- (3) The existing USF can and should be modified immediately to accommodate support requirements for educational institutions and health care providers in rural areas.

These Comments will provide the foundation for a more detailed analysis, particularly of the BCM, to be submitted subsequently.

## **II. The Existing Universal Service Fund Can Be Modified Easily to Achieve Congressional Goals, as well as those Previously Articulated by the Commission.**

The universal program of the past decade clearly provides the kind of explicit, "predictable," and "specific" mechanism which Congress intended for rural service providers in the legislation. Section 214(e)(5), for example, mandates continuation of the current USF "study area" as the service area for universal service support purposes for all rural telephone companies, unless and until changed by the Joint Board. That "unless and until" might never eventuate was an acceptable possibility, accounted for by Congress in the 1996 Act.

The USF, however, should be changed in several respects, as PTI has repeatedly stated in the past. The following changes should be adopted by the Joint Board in order to make the existing mechanism more effective:

**1. The basis of universal service support payments should be immediately changed and broadened to relieve interexchange carriers of their current inequitable burden.** The 1996 Act provides the legal authority for extending the obligation of universal service support to all telecommunications carriers. Section 254(d). The substitution, for example, of some form of surcharge, in lieu of the current access charge arrangement pertaining only to interexchange carriers ("IXCs"), can be immediately implemented, regardless of whether the USF is continued indefinitely or on a transitional basis only. The mechanisms by which the size of the Fund is determined do not depend upon or control the mechanisms by which that support is recovered. This is consistent with the 1996 Act's requirement for an expanded base of specific and predictable support derived from all providers of telecommunications services. Section 254(b)(4),(5).

**2. The Joint Board should adopt annual accountability and reporting standards which will identify the uses of the USF proceeds.** Any alleged abuses of the Fund proceeds can be addressed directly by requiring all recipients of support to annually demonstrate the source and application of the funds. To the extent funds are misapplied, they can be recovered through disallowances or offsets against succeeding year draws, or recovered directly, if necessary. This is in accord with the 1996 Act's requirement mandating "specific, predictable and sufficient" support (Section 254(d)(5)) and with the Commission's past concerns regarding targeting, efficiency and the size of the overall Fund.

**3. The "front end" threshold for recovery should be raised; the "back end" recovery should be capped below 100%.** Raising the front end threshold (currently 115%), in tandem with defining some appropriate minimum level of end user contribution to loop cost, will partially address the 1996 Act's concerns that rural rates be "reasonably

comparable" to urban rates and will, further, address the Commission's prior concerns regarding incentives to efficiency. A cap of the back end (below the current 75% factor) will prevent 100% recovery of costs by any recipient, thus addressing the efficiency concerns previously expressed by the Commission.

**4. The USF should be applied to rural service areas, as defined by the statutory definition of "rural telephone company," only.** The USF was originally intended to ensure adequate support for facilities investment in rural serving areas. This orientation is entirely consistent with Congressional intent regarding infrastructure enhancement, as expressed in the 1996 Act and the accompanying Joint Explanatory Statement of the Committee of Conference.<sup>4/</sup> Urban universal service may require separate consideration and solution(s), particularly where those urban areas are served by large companies subject to special and specific requirements under the 1996 Act concerning their future activities.<sup>5/</sup> Providing support funding to rural telephone companies and those entrants who subsequently qualify for eligible telecommunications carrier status in rural areas (under Section 214(e)(1) and (2) of the 1996 Act) will further the purposes of the 1996 Act and will help achieve the Commission's goals of competitive neutrality, targeting, and control over the future size of the Fund. Notice at ¶¶ 13-14.

With these specific changes, the existing USF will achieve the goals of Congress regarding "specific, predictable and sufficient" support mechanisms for universal service. Further, it will do so with minimum disruption to the current system, which has

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4. S. Rep. No. 104-458, 104th Cong., 2d Sess., 131 (1996).

5. See, e.g., Section 271 (Bell operating company entry into interLATA services), Section 273 (Manufacturing by Bell operating companies).

been demonstrably successful in achieving universal service goals.<sup>6/</sup> It also would ameliorate deficiencies perceived by the Commission in the current fund mechanism,<sup>7/</sup> and would affirmatively promote the Commission's expressed goals of competitive neutrality, incentives for efficiency, controlled fund size, and accountability.

**III. The Benchmark Cost Model Lacks an Adequate Legal and Analytical Foundation; PTI Will Provide Analysis, Based on Actual Rural Serving Conditions, for Consideration by the Joint Board and Others.**

When the Commission sought comment last fall on the Joint Sponsors' (US West, Nynex, MCI and Sprint) BCM, PTI was one of only two local exchange carriers ("LECs") out of approximately 50 commenting rural and independent LECs that performed a rigorous analysis of the model as then proposed.<sup>8/</sup> PTI purchased the software necessary to evaluate these models and has reviewed the large number of ex parte filings that have been submitted to the Commission with respect to their operation. PTI is committed to providing a quantitative and qualitative analysis of the proposed models, using real data from its rural operations, to assist the Joint Board's review of the feasibility and viability of these models in the context of rural service. The BCM is both complicated and currently undergoing further changes from its Sponsors. Nonetheless, PTI has begun evaluating the model and will include the results of its analysis in its reply comments or soon thereafter as meaningful results can be obtained.

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6. See Comments of Pacific Telecom, Inc., CC Docket No. 80-286 (filed October 10, 1995) at 2.

7. See "A Review of Current Interstate Support Mechanisms," Common Carrier Bureau. Federal Communications Commission (February 23, 1996).

8. Comments of Pacific Telecom, Inc., CC Docket No. 80-286 (filed October 8, 1995).

PTI's review will provide the Joint Board and the Commission with a different, but critical perspective. The Sponsors putting forth the proxy models are, obviously, real parties in interest in this proceeding, with economic viewpoints and goals not necessarily shared by others. The Joint Board and the Commission should separately undertake to study and verify the assumptions and mechanics of any BCM-type proposal before it adopts such a proposal. PTI's submission is intended to aid that evaluation.

**IV. The Urgent Needs of Educational Institutions and Health Care Providers Warrant Immediate Creation of an Adjustment to the USF to Account for the Congressionally Mandated Rate Differentials Available for These Entities.**

In the 1996 Act, Congress addressed support for rural health care and educational entities in terms of a specific mechanism: rate differentials. Section 254(h). Congress required that any differences between the rate applied to such entities and the rate which would otherwise apply (whether couched in terms of "discount" (Section 254(h)(1) or rate averaging (Section 254(h)(1)(A)) are to be recovered from the universal service support mechanism and funds (either by offset or in cash).

Under these circumstances, the amount of the differential which qualifies for support treatment can be readily identified. The rate at which service will be provided must be established (and therefore known), in order to collect from the customer. The in-lieu-of rate will either also be known because currently filed or available for quote (e.g., the applicable tariff rate, in the case of a rural LEC) or can be required to be demonstrated (e.g., via TSLRIC study submitted by a competitive LEC). In either case, a specific support amount can be established and added to the USF pool requirements for recovery.

That the USF mechanism currently focuses on unseparated local loop costs as the basis for assaying support levels creates no impediment to implementation of a separate,

parallel mechanism for identifying support costs. The use of different mechanisms, where each is identified to its specific purpose and computation, produces a commonly denominated result -- a dollar-amount of cost which is to be pooled and recovered from all telecommunications carriers. Thus, the existing USF pooling mechanism can be utilized immediately to begin support for rural educational and health care providers.

## **V. Conclusion**

The Joint Board should undertake to recommend immediately the implementation of the USF changes proposed herein. The existing Universal Service Fund clearly meets Congressional criteria for explicit universal service support, as those criteria are expressed both in the 1996 Act and in the accompanying Joint Conference Committee explanation. The BCM may prove to be viable; if it does, the existing USF mechanism will be necessary as a basis for transition to any new BCM-based structure. Further, the existing USF can be adapted to serving the needs of rural health care providers and educational entities, thus preventing delay in the recognition and addressing of their critical requirements. Hence, improving the existing USF now will achieve both intermediate and long term goals.

The BCM, on the other hand, is a heavier-than-air craft that has yet to get off the ground. Given the cross-purposes of its Sponsors, it clearly requires real data and real study. PTI commits to advancing a study, based on actual rural conditions, for the further consideration of all parties to the proceeding. No matter what that study shows, however, consideration and analysis of the BCM by a truly neutral body, such as the Joint Board, is essential to ensure that such a mechanism achieves Congressional goals. Given Congress' intention that the Joint Board's recommendations include explicit support mechanisms, and because the existing USF mechanism can be reformed to address Congressional and

Commission concerns, the Joint Board is not required to have completed any such analysis of the BCM by November 8, 1996. It should take whatever time is reasonably required to achieve Congress' goals.

For the foregoing reasons, PTI requests that the Commission adopt modifications to its high cost assistance programs that are consistent with these Comments and the directives of the 1996 Act.

Respectfully submitted,

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April 12, 1996



## CERTIFICATE OF SERVICE

I hereby certify that I have this 12th day of April, 1995, caused copies of the foregoing "Comments of Pacific Telecom, Inc." to be served by first class mail postage prepaid, on the following:

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